

### REMARKS

In the Office Action dated November 17, 2003, for the parent case 09/669,585, new method claims 21-33 (added by amendment) were withdrawn from examination by the Examiner on the basis that a method of making a device was different patentably from the original apparatus claims 1-20. The Examiner considers the original apparatus claims as constructively elected and held that the amendment or response to an earlier Office Action was therefore non-responsive.

This RCE is a formal request that the withdrawn but pending method claims 21-33 now be considered and examined.

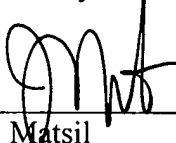
Claims 21-33 recite that the dielectric layer formed on the upper portion of the circuit capacitor is used as an etch mask for etching the transistor trench. This feature is not even supported, much less taught by Bronner et al.

Therefore, claims 21-33 are believed to be in condition for allowance, and the Examiner is requested to pass this case to issuance.

Any inquiries may be directed to the undersigning attorney at its indicated telephone number below.

12/16/03  
Date

Respectfully submitted,

  
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